

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

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NOTICE TO PARTIES OF RECORD

PROJECT NAME: SEVENTH DAY ADVENTIST CHURCH

**CASE NUMBERS: CUP2009-00003, PSR2009-00013, FLP2009-00004,
HAB2009-00015, SEP2009-00025, WET2009-00020**

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6th floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **July 14, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$ 716**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **June 30, 2009**

PROJECT NAME: Seventh Day Adventist
PROJECT NUMBER: PSR2009-13
HEARING DATE: June 25, 2009

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SEVENTH DAY ADVENTIST CHURCH
PARKING ADDITION
CUP2009-00003; PSR2009-00013; FLP2009-00004;
HAB2009-00015; SEP2009-00025; WET2009-00020
HEARING DATE: 6/25/09

PLANNER: MICHAEL UDUK
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**BEFORE THE LAND USE HEARINGS EXAMINER
CLARK COUNTY, WASHINGTON**

REGARDING THE APPLICATION FOR A)	FINAL ORDER
CONDITIONAL USE TO EXPAND ITS PARKING)	
FACILITY ONTO AN ABUTTING PROPERTY BY)	SEVENTH DAY ADVENTIST
CONSTRUCTING 90 ADDITIONAL OFF-STREET)	CHURCH
PARKING SPACES IN TWO (2) PHASES ON AN)	CUP2009-00003, PSR2009-00013,
APPROXIMATELY 1.3 ACRE SITE IS ZONED R1-6)	FLP2009-00004, HAB2009-00015,
IN THE UNINCORPORATED CLARK COUNTY,)	SEP2009-00025, WET2009-00020
WA.	

APPROVED WITH CONDITIONS

INTRODUCTION

The project site is Tax Lot 98 (158278), an approximately 1.3 acre property zoned Single-Family Residential District, R1-6. There are 2 existing residences on the property; a single family dwelling that will be retained and a mobile home serving as a life-estate and residence of the previous owner that will be removed (or demolished) when the life-estate terminates. The R1-6 zone permits several uses including a church use, which requires a conditional use permit (CUP) and site plan review approval.

The church wants to expand its parking structure onto an abutting property, Tax Lot 98 (158278), by constructing 90 additional new parking spaces comprising 78 standard parking spaces and 12 compact parking spaces. As shown in the preliminary site plan, the development will occur in two (2) phases, Phase 1 and Phase 2. In Phase 1, the applicant proposes to construct 69 parking spaces, a driveway connecting NE 99th Street, and an access connecting the church to the new parking lot. In Phase 2, the applicant proposes to construct the remaining 21 parking spaces; the development in this phase will occur when the life estate terminates and ceases to exist on the property.

The applicant obtained a CUP and site plan review approval for the church building in 2001 (see CUP2001-00013, PSR2001-00104, SEP2001-00128, VAR2001-0010, etc., files for details). The surrounding properties are all residential R1-6 sites.

The property is located in unincorporated Clark County, outside the urban growth area (UGA) of any city.

Location: 5607 NE 99th Street Parcel Number(s): 5607 NE 99th Street, Tax Lot 24 (156204-001), 24 (156204) 26, 59, 98 (156278) located in NW ¼ of Section 6, Township 2 North, Range 2 East, of the Willamette Meridian.

Applicant: Sterling Design, Inc
2208 E. Evergreen Blvd, Suite A
Vancouver, WA 98661

Property Owner: WOCA Seventh Day Adventists Church
19800 Oatfield Road
Gladstone, OR 97027

Comp Plan: Urban Low Density Residential (UL)

Applicable Laws: Clark County Code (CCC) Chapter: 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.380 (Stormwater Drainage and Erosion Control), 15.12 (Fire Code), 40.450 (Wetland Protection), 40.440 (Habitat Conservation), 40.420 (Flood Hazard Areas), 40.520.030 (Conditional Use Permit, CUP), 40.520.040 (Site Plan Review), 40.320 (Landscaping and Screening), 40.340.010 (Parking and Loading Standards), 40.610 (Impact Fees), 40.500 (Procedures), and 40.570 (SEPA)

Vesting: March 13, 2009

HEARING AND RECORD

The Public Hearing on this matter was held on June 25, 2009 and the record was closed at the conclusion of the hearing. Records of all testimony received are filed at the Clark County Department of Community Development.

The Examiner has conducted an unaccompanied site visit prior to the Hearing.

Pre-Hearing Public Comments:

The county received public comments Mr. Edmund Denny, who is concerned that a proposed drainage easement along the easterly property boundary has not been implemented. The drainage easement was established with a prior development, PLD2004-00105 (Talisha Subdivision), to mitigate adverse flooding impacts in the area, the worst of which occurred in 1996.

Staff's Response:

Staff finds that even though the property had been approved for the construction of a 7 lot residential subdivision, the applicant for PLD2004-00105 (Talisha Subdivision) has not proceeded with the final plat recording process; therefore, the conditions of approval that were tied to the development have not been implemented. However, the non-completion of Talisha Subdivision notwithstanding, issue raised in Mr. Denny's letter will be evaluated by Public Works Development Engineering staff as part of the stormwater runoff review for this proposal. (See the Stormwater section of this report for detail.)

Hearing:

Michael Uduk, the lead County Planner on this application, introduced the site, highlighted key issues in the Staff Report and made a recommendation of approval. In doing so he testified that the applicant is requesting permission to construct 90 additional parking spaces

on an adjoining 1.3-acre site, zoned R1-6. The staff report was issued on June 10; the likely SEPA determination of non-significance issued on April 24 became final on that date. There has been no SEPA appeal. Project issues include the requirement that the applicant provide a phasing plan prior to approval. Staff is recommending approval, subject to the conditions of approval in the staff report.

Joel Sterling, the applicant's representative, testified that he was supposed to bring a copy of that phasing plan to tonight's hearing; but he offered to email that plan to Mr. Uduk first thing in the morning. He agreed with the staff report.

No public testimony was offered at tonight's hearing.

FINDINGS

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues were either raised by the applicant, addressed by staff in its report, or by agency comments on the application, and the Examiner adopts the following findings:

LAND USE:

Finding 1

Tax Lot 98 (156278) was granted a preliminary plat approval to subdivide the approximately 1.3 acre property into 7 single-family residential lots on April 29, 2005. (See PLD2004-00105, ARC2004-00095, WET2004-00052, SEP2004-00180, HAB2004-00252, Talisha Subdivision file for additional information.) The subdivision approval is valid for 5 years; and, in this case, the approval for Talisha Subdivision will expire on April 28, 2010, if a fully complete application is not submitted to the Chief Building Official. The current application by Seventh Day Adventist Church to construct 90 additional parking spaces to serve the church's congregation on this site would also negate the prior subdivision approval with the final site plan approval and subsequent development of the parking lot. Staff has not received any correspondence objecting to this development proposal or indicating an interest in completing PLD2004-00105 (Talisha Subdivision) et al.

The church currently has 259 off-street parking spaces (see Sheet 4 of 7), six of which will be converted to handicapped parking. The proposed additional new 90 off-street parking spaces that the church is constructing qualify for a new conditional use permit (CUP) per CCC 40.520.030 because:

1. The increase amounts to 34.74 percent of the existing parking lot; and,
2. The increase exceeds (or is greater than) 25 percent to qualify for a minor expansion review.
3. The applicant is expanding the church use onto the 1.3 acre property that was not included in the original conditional use permit application and review.

This finding provides the rationale for the CUP based upon the standards in the applicable sections of the code; therefore, no condition of approval is necessary.

Conditional Use Permit Review Standards

Finding 2

CCC 40.520.030 establishes the general guidelines for CUP review and approval. CCC 40.520.030 (E) (1) authorizes the hearings examiner to impose other conditions found necessary to protect the best interest of the surrounding property or neighborhood. The examiner could establish conditions that may include but are not limited to:

- a. Increasing the required lot size or setback dimensions;
- b. Increasing street widths;
- c. Controlling the location and number of vehicular access points to the property;
- d. Increasing the number of off-street parking or loading spaces required;
- e. Limiting the number of signs;
- f. limiting the lot coverage or height of buildings because of obstructions to view and reduction of light and air to adjacent property;
- g. Limiting or prohibiting openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area [see CCC 40.320.010 (C) (4), Landscaping and Screening]; and,
- h. Establishing requirements under which any future enlargement or alteration of the use shall be reviewed by the county and new conditions imposed.

The hearings examiner must find that the establishment, maintenance or operation of the new parking lot will not be significantly detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of the church, or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the county. [See CCC 40.520.030 (E) (1) (2), Actions by the hearings examiner]

Site Plan Review Standards:

Landscaping and Screening

Finding 3

CCC 40.320.010 (Landscaping and screening on private property) provides standards for landscaping and screening along private property boundaries in Clark County. The degree and height of the required screening is based on the zoning of the project site and the neighboring properties. In addition, CCC 40.320.010 (C) (4) also stipulates that the examiner can require additional screening and landscaping for a CUP than that required in Table 40.320.010-1 and CCC 40.320.010 (C) (2), where it is necessary to reduce noise and glare; and, to maintain the property's character in keeping with the surrounding area.

The following landscaping scheme shall be implemented for this site:

1. On the north, the required landscaping is L2 within a 10 foot buffer width fronting NE 99th Street, an unclassified county road.
2. On the south, no boundary landscaping is required; however, where appropriate, the applicant shall provide landscaping as shown in the proposed landscape plan on Sheet 7 of

7, the Preliminary Landscape Plan.

3. On the east, the required landscape scheme is L3 within a 5 foot buffer width along the fence line; except where the full implementation of the landscape scheme will impact the defined habitat buffer.
4. On the west, the required landscape scheme is L2 within a 10 foot buffer width along the site's frontage on NE St. Johns Road.
5. Staff finds also that the proposed screening shown in the preliminary landscape plan (Sheet 7 of 7) could be adequate when implemented; except that the applicant needs to provide a row of arborvitae within a 5-foot wide buffer along the easterly boundary of the site. (See #3 above and Condition A-8)
6. Since this is a phased project, the applicant shall implement the landscape plan necessary to provide adequate screening for Phase 1. Full landscape implementation of the landscape plan shall be required with the development of Phase 2 as proposed. (See Condition 8e)

Handicapped Parking

Finding 4

For the 90 new parking spaces being constructed, the applicant shall provide 4 additional handicapped parking spaces [per CCC 40.340.010 (B) (6) and Table 1106-1, International Building Code (IBC), 2003] prior to final site plan approval.

Staff finds that the total parking for the church will be 346 spaces when the development is completed; and, the number of handicapped parking required is 8 spaces. The applicant is providing 10 handicapped parking spaces, which meet the minimum standard required per the applicable sections of the code. Per Section 1106-5 of the International Building Code, 2003, for every six or fraction of six accessible parking spaces, at least one shall be a van-accessible parking space. In this case, two (2) parking spots shall be van-accessible spaces. (See Condition A-1a)

Light and Glare

Finding 5

The applicant did not submit a lighting plan for the parking plot. Outdoors lighting in the parking lot shall be consistent with RCW 47.36.180 standards for lighting near public roadways, and shall not cast significant light or glare off-site on adjacent properties, especially on NE St. Johns Road, NE 99th Street, and onto the abutting property east of the site (per CCC 40.340.010 (A) (7)). Therefore, the applicant shall provide a lighting plan indicating that proposed lighting on the parking lot do not cast significant lighting and glare off-sight on adjacent properties, especially on NE St. Johns Road, NE 99th Street and onto the abutting property east of the site, prior to final site plan approval. The lighting plan shall be an item in the final site plan review submittal for the project planner to review. (See Condition A-1b)

Conclusion (Land Use):

The proposed preliminary plan, subject to conditions identified above, meets the land use

requirements of the Clark County Code.

ARCHAEOLOGY:

(See Standard Condition A-2a)

HABITAT:

Finding 1

The project location is near Miller Pond, a Department of Natural Resources (DNR) type F (fish-bearing) water-body. A Department of Natural Resources (DNR) type F water-body requires a 200' riparian Habitat Conservation Zone (HCZ). The riparian HCZ is measured 200' horizontally outward from the ordinary high water mark of the pond.

Finding 2:

The project also is near a Washington Department of Fish and Wildlife (WDF&W) Priority Species area for wintering waterfowl concentrations. The Habitat Ordinance requires a 300' review area surrounding Priority Species polygons in order to review indirect impacts from adjacent land uses.

Finding 3:

The applicant proposes to construct a new church parking lot within these habitat areas. No major vegetation is proposed for removal. The applicant proposes some additional mitigation in order to compensate for any habitat impacts. Additionally, staff conditioned a construction work window in order to prevent waterfowl disturbance during critical use periods.

Conclusion:

The project complies with the Habitat Conservation Ordinance, subject to the Conditions A-2b(i) through A-2b(v) and Condition H-1.

WETLAND:

Only major issues that require conditions and/or revisions to the proposed plans to ensure compliance with the requirements of the Wetland Protection Ordinance (CCC 40.450) are discussed in detail below:

Finding 1

The wetland buffer boundary was established under a previously issued Wetland Determination (WET2009-00020, Exhibit 18). Wetland buffers are functionally isolated by existing development on either side of the proposed project site. The wetland buffer boundary is not shown correctly on the preliminary plans (Exhibit 6, Tab 9) or in the December 2008 Site Inspection Report prepared by the Resource Company (Exhibit 6, Tab 21D). Wetland Buffers must be shown correctly on the Final Site Plan and Engineering Construction Plans.

Finding 2

There is an existing conservation covenant recorded over portions of the wetland buffer (AF#3594064, Exhibit 16).

Finding 3

The proposed parking expansion (Exhibit 6, Tab 9) encroaches into wetland buffers and

portions of the area protected by the conservation covenant as shown in Exhibit 17 (prepared by staff). The January 2009 Addendum to the Wetland Mitigation Plan (Exhibit 6, Tab 21D) does not identify impacts to the wetland buffer or covenant area and no mitigation for these impacts is proposed.

It is not clear that mitigation that complies with the Wetland Buffer Standards 40.450.040.C or the Indirect Wetland Impact standards in 40.450.040.D.5 is feasible on the site, therefore the applicant has 2 options to address these wetland buffer impacts:

- A) Apply for Final Wetland Permit approval with a wetland buffer mitigation plan that meets the standards of 40.450.030.C or .040.D.5 and apply for the appropriate Covenant Modification (which could require a Type III review per 40.450.040.G.1.d.(5)); or
- B) Revise the Site Plan to avoid wetland buffers.

Conclusion:

Based upon the development site characteristics and the proposed development plan, the proposed preliminary plat and preliminary wetland permit comply with the requirements of the Wetland Protection Ordinance PROVIDED that certain Conditions A-1c and B-4 are met. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FLOODPLAIN:

Finding #1 – Flood Hazard Area:

A floodplain inquiry was performed and it was determined by staff that a floodplain permit is not required for this proposal; therefore, no condition of approval is necessary with this finding.

TRANSPORTATION:

Finding #1 – Pedestrian/Bicycle Circulation Plan

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required in accordance with the provisions of Section CCC 40.350.010. The proposal meets the pedestrian circulation code.

Finding #2 – Road Circulation

The applicant submitted a cross circulation plan. The project complies with the circulation plan requirements, Section CCC 40.350.030(B)(2).

Finding #3 – Roads

NE St. Johns Road is an “Urban Principal Arterial” and it appears the minimum frontage improvements exist for a Pr-4cb. NE 99th St. is an “Urban Local Residential Access” road and associated minimum frontage improvements are required. It appears the improvements exist except for a minimum right-of-way width of 23 feet. (See Condition # A-3a)

The applicant has indicated that it is not possible for the proposed driveway approach to be designed so that it meets the details of standard drawing number F17 due to insufficient existing area. A modified F17 can be utilized provided the applicant submits a diagram indicating turning movements at the driveway approach are sufficient. The applicant shall also

provide diagrams of on-site turning movements. (See Condition #A-3b)

Road Modification (EVR2009-00010)

The applicant has submitted a road modification in order for the allowance to access NE 99th St., an “Urban Local Residential Access” road.

The applicant proposes the road modification request can be justified based on CCC 40.550.010(A)(1)(a) and CCC 40.550.010(A)(1)(c). The applicant believes the locations of the church, surrounding roadways, and available parking areas result in a hardship. The applicant also believes CCC 40.550.010(A)(1)(c) applies because a second access provides greater access in the event of an emergency. Furthermore, the access onto a local access road is in close proximity to NE St. Johns Road, an “Urban Principal Arterial”.

The road modification request can be supported based on criterion CCC 40.550.010(A)(1)(c). In addition to the road modification analysis, the applicant submitted a traffic study that indicates there is sufficient distance on NE 99th Street from the proposed driveway approach to NE St. Johns Road for the purpose of “stacking” vehicles. The analysis was also reviewed by Clark County Transportation staff who believes the proposal is acceptable.

The Examiner accepts staff’s recommendation is Approval of the road modification request.

Finding #4 – Sight Distance

The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections.

The applicant submitted a sight distance certification letter dated March 13, 2009. The applicant measured sight distance at the proposed driveway approach and at the intersection of NE 99th Street and NE St. Johns Road. The applicant indicates in order to comply with sight distance from the driveway approach mitigation shall take place to the east of the driveway. (See Condition # A-3c)

Conclusion (Transportation):

The proposed preliminary plan, subject to conditions identified above, meets the transportation requirements of the Clark County Code.

TRANSPORTATION CONCURRENCY:

Finding 1: Trip Generation

The County’s Concurrency Staff requested a modified traffic study specifically looking at site accesses for safety, turn lane warrants and potential queuing deficiencies during the weekend peak hour of operation.

County concurrency staff has reviewed the proposed SDA Church Parking Lot Expansion. The applicant’s modified traffic study indicates that this church expansion will include the

construction of an additional 90 parking spaces adjacent to the existing church. The study also indicates that an additional access will be constructed onto NE 99th Street approximately 250 feet east of NE St. Johns Road.

The study shows that the construction of a parking facility would not increase building square footage. Thus, the proposed parking lot expansion would not generate new trips contributing to the surrounding road network. However, the traffic study shows that construction of a new access, onto NE 99th Street, would redirect approximately 30% of the traffic from the site access onto NE St. Johns Road. Staff concurs with the applicant's findings. The proposed site is located at 5607 NE 99th Street.

The applicant has submitted a traffic study under the provisions of Clark County Code section 40.350.020.

Finding 2: Site Access

Level of service (LOS) standards¹ is not applicable to accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site.

The traffic study shows that the un-signalized intersection of NE 99th Street/NE St. Johns Road will maintain an estimated LOS B into the 2011 build-out horizon with the proposed new access onto NE 99th Street. The study also shows that the existing signalized access onto NE St. Johns Road will maintain a LOS B in the 2011 build-out horizon. These LOS were evaluated for Saturday Church services peak hour traffic conditions. County Staff concurs with the applicants findings.

Finding 3: Vehicle Queuing

The applicant's traffic study analyzed vehicle queuing to determine if there were deficiencies that needed to be mitigated. The applicant's study shows that the longest vehicle queue observed at the existing access was 8 vehicles. The study shows that all 8 vehicles cleared the intersection during the subsequent green signal phase. The study also indicates that with the rerouted church traffic onto NE 99th Street the longest vehicle queue anticipated, at the signalized NE St. Johns Road access, is 6 vehicles. The study concluded that vehicles queued at the intersection of NE St. Johns Road/site access are not expected to experience long delays. Long delays are not expected because anticipated vehicle queues are expected to clear the intersection during the green signal phase.

The intersection of NE St. Johns Road/NE 99th Street was also analyzed for potential queuing deficiencies. The applicant's study shows that with the new access location onto NE 99th Street, the longest vehicle queue is expected to be 4 vehicles.

¹ Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet the needs and expectations of the driver. This scale is graded from A to F and is referred to as level-of-service (LOS). A driver who experiences an LOS A condition would expect little delay. A driver who experiences an LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver who experiences an LOS F condition would expect significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic.

The study indicates that the 250 feet of available vehicle storage is sufficient to accommodate the anticipated queues on NE 99th Street.

Staff concurs with the applicant's findings; therefore, no additional analysis or mitigations are required.

Safety:

Where applicable, a traffic study shall address the following safety issues:

- Turn lane warrant analysis,
- Accident analysis, and
- Any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 40.350.030(B)(6) The code states that "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a *significant* traffic or safety hazard *would be caused or materially aggravated* by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020."

Finding 4: Turn Lane Warrants

Turn lane warrants are evaluated at un-signalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway.

The applicant's traffic study indicates that left turn lanes on NE St. Johns Road have been provided as a part of the County's St. Johns Road capital improvement project. Because left turn lanes had been provided, the applicant performed only the right turn lane warrant analyses for the Saturday service peak hour period.

The study concluded that because of low right turning volumes at the intersections of NE St. Johns Road/existing site access and NE St. Johns Road/NE 99th Street, right turn lanes were not recommended. County staff agrees with the traffic study findings.

Finding 5: Historical Accident Situation

The applicant's traffic study analyzed the accident history obtained from both Clark County and WSDOT. The accident history covered a time period between January 1, 2005 and December 30, 2007 (WSDOT), and January 1, 2003 and December 31, 2007 (Clark County). The traffic study determined that the accident rate for the study intersections did not exceed the minimum threshold where further analysis is required. Staff concurs with the applicant's findings.

Finding 6: Sight Distance

Sight distance issues are addressed by Community Development; therefore, this issue will not be addressed here.

Conclusion

Based upon the development site characteristics, the proposed transportation plan, the requirements of the County's transportation concurrency ordinance, and the findings above, the

proposed preliminary transportation plan meets the requirements of the county transportation concurrency ordinance CCC40.350.020.

STORMWATER:

Finding 1 - Applicability

The Stormwater and Erosion Control Ordinance (CCC 40.380) applies to development activities that result in 2,000 square feet or more of new impervious area within the urban area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities.

The project will create more than 2,000 square feet of new impervious surface, involves a land disturbing activity not exempted in section 40.380.030. Therefore, this development shall comply with the Stormwater and Erosion Control Ordinance (CCC 40.380).

The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Finding 2 – Stormwater Proposal

The applicant has submitted a preliminary stormwater report dated March 10, 2009. The applicant indicates stormwater will be managed through the use of a private biofiltration swale and private detention facility.

The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 4.0 inches. The 10-year/24-hour storm event precipitation depth is 3.0 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches.

According to the water quality calculations provided by the applicant, pervious area was included in the sizing of the water quality facility. The water quality facility shall be sized by considering the new proposed impervious areas that generate pollution while not including the pervious areas. **(See Condition # A-5a)**

Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. According to CCC 40.380.050 (B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site. An offsite analysis extending a minimum of one-fourth of a mile downstream from the development site in compliance with the provisions of Section CCC 40.380.040(B)(2) is required. **(See Condition # A-5b)**

The proposed private stormwater facilities shall be located inside private stormwater easements. Per CCC 40.380.040 (H)(3)(b), an easement or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspection of privately maintained facilities. **(See Condition # A-5c)**

Finding #3 – Existing 12” Stormwater Pipeline

There is a storm pipe that was installed to act as an overflow pipe for Miller Pond located southeast of the site. Prior to the final site plan approval, the applicant shall provide

engineering staff information regarding the 12” pipe existing on the site that is meant to act as an overflow pipe for the pond. In addition, the applicant shall make any necessary changes to the stormwater plan if the pipe interferes with the plan in any way. (See Condition # A-5d)

Conclusion (Stormwater):

The proposed preliminary stormwater plan, subject to the conditions above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

Finding #1 – Fire Marshal Review

This application was reviewed by Tom Scott in the Fire Marshal's Office.²

WATER & SEWER SERVICE:

Finding 1

Clark Public Utilities (CPU) provides potable water and Clark Regional Wastewater provides sewer service in the area, respectively. Letters from the above districts confirm that services are available to the site.

Finding 2

Submittal of a “Health Department Evaluation Letter” is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable “Health Department Final Approval Letter” must be submitted, the Evaluation Letter will specify the timing of when the Final Approval letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or Prior to Occupancy). The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department. (No Condition Required)

Conclusion (Water & Sewer Service):

The proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

IMPACT FEES:

Finding #1 Traffic Impact Fees

Public Works Transportation Concurrency staff has reviewed this project and concluded that the parking lot addition does not trigger a need for traffic impact fees (TIF) calculation, because the parking lot is a support facility to an existing structure and use. Therefore additional TIF is not applicable.

² Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

SEPA

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on April 24, 2009, is hereby final.

DECISION

Based upon the proposed plan (identified as Exhibit 5), and the findings and conclusions stated above, the Examiner **APPROVES** this request, subject to the following conditions of approval:

CONDITIONS OF APPROVAL

A	Final Construction/Site Plan Review Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction/Site Plan shall be submitted for review and approved, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Land Use & Zoning:

- a. Handicapped Parking: Per Section 1106-5 of the International Building Code, 2003, the applicant shall provide two (2) parking spots that are van-accessible parking spaces. (See Land Use Finding 4)
- b. Outdoors Lighting: The applicant shall provide a lighting plan indicating that proposed lighting on the parking lot do not cast significant lighting and glare off-sight on adjacent properties, especially on NE St. Johns Road, NE 99th Street, and the abutting property east of the site, prior to final site plan approval. The lighting plan shall be an item in the final site plan review submittal for the project planner to review. (See land Use Finding 5)

A-2 Final Site Plan:

The applicant shall submit and obtain County approval of a final site plan in conformance to CCC 40.350 and the following conditions of approval:

- a. Archaeology: *A note shall be placed on the face of the final site plan and construction plans as follows:*
"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

b. Habitat Plan:

- i. The applicant shall implement the "Addendum to Wetland Mitigation Plan" submitted by The Resource Company, Inc. and dated January 14, 2009 (except as amended herein).
- ii. The applicant shall place habitat signage along the approved habitat boundary at 100-foot intervals. Habitat signage shall read "habitat conservation area -- please leave in a natural state."
- iii. *A note shall be placed on the final Engineering Plans as follows: "No construction shall take place between October 1 and May 15, without prior approval from the WDF&W and county Habitat Biologist."*
- iv. *A note shall be placed on the final Engineering Plans as follows: "Prior to any ground-breaking activities, tree protection fencing shall be installed around the protected trees."*
- v. Tree protection fencing shall be shown on the face of the Engineering Construction Plans set.

c. Wetland Permit:

1. Final Wetland Permit approval shall be required unless the Final Site Plan is modified to avoid wetland buffers. The Final Wetland Permit application shall include:
 - a. Mitigation for any proposed wetland buffer impacts or indirect wetland impacts shall comply with 40.450.030.C or .040.D.5.
 - b. Application for any necessary modifications to the existing Conservation Covenant.
2. The applicant shall record a conservation covenant in a form approved by the County Prosecuting Attorney with the County Auditor that runs with the land and requires that the wetlands and buffers remain in natural state.
3. Wetland Plan:
 - a. The Engineering Construction Plans and Final Site Plan shall clearly show the correct wetland buffers.
 - b. The following note shall be placed on the final site plan:

"Clark County Wetland Protection Ordinance (Clark County Code Chapter 40.450) requires wetlands and wetland buffers to be maintained in a natural state. Refer to the previously recorded Conservation Covenant (AF#) for limitations on the maintenance and use of the wetland and wetland buffer areas identified on the face of this plat."

A-3 Final Transportation Plan/On-Site:

The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. The applicant shall dedicate right-of-way along the frontage of NE 99th St. to meet the 23-foot standard for an “Urban Local Residential Access” road.
- b. The applicant shall provide diagrams of turning movements for the proposed on-site parking lot and driveway approach.
- c. Sight distance mitigation shall be provided per the sight distance analysis provided by the applicant.

A-4 Transportation:

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-5 Final Stormwater Plan:

The applicant shall submit and obtain County approval of a final stormwater plan for on and off-site facilities (as applicable), designed in conformance to CCC 40.380 and the following conditions of approval:

- a. The water quality facility shall be sized by considering the new proposed impervious areas that generate pollution while not including the pervious areas.
- b. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. According to CCC 40.380.050 (B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site. An offsite analysis extending a minimum of one-fourth of a mile downstream from the development site in compliance with the provisions of Section CCC 40.380.040(B)(2) is required.
- c. The proposed private stormwater facilities shall be located inside private stormwater easements. Per CCC 40.380.040 (H)(3)(b), an easement or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspection of privately maintained facilities.

- d. Prior to final site plan approval, the applicant shall provide more information regarding an on-site existing 12" pipe that is meant to act as an overflow (pipe) for the pond located southeast of the site. In addition, the applicant shall make any necessary changes to the stormwater plan if the pipe interferes with the plan in any way.

A-6 Erosion Control Plan:

The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.

A-7 Final Landscape Plan:

The applicant shall submit and obtain county approval of final landscape plan consistent with the approved preliminary landscape plan and conditions listed below (ref: CCC 40.320). The landscape plan shall include landscaping within the public Rights-of-Way along NE St. Johns Road and on-site and the following:

- a. On the north, the required landscaping is L2 within a 10 foot buffer width fronting NE 99th Street, an unclassified county road.
- b. On the south, the applicant shall provide landscaping as shown in the proposed landscape plan on Sheet 7 of 7, the Preliminary Landscape Plan.
- c. On the east, the required landscape scheme is L3 within a 5 foot buffer width along the fence line; except where the full implementation of the landscape scheme will impact the defined habitat buffer. The applicant shall provide a row of arborvitae within a 5-foot buffer along the fence line.
- d. On the west, the required landscape scheme is L2 within a 10 foot buffer width on NE St. Johns Road along the site's frontage. (See Land Use Finding 3)
- e. The applicant shall implement the landscape plan necessary to provide adequate screening for Phase 1. Full landscape implementation of the landscape plan shall be required with the development of Phase 2 as proposed. (See Land Use Finding 3)

A-8 Health Department Review:

Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department.

A-9 Other Documents Required;

The following documents shall be submitted with the Final Construction/Site Plan:

- a. Stormwater Maintenance Covenant: - A "Developer Covenant to Clark County"

shall be submitted for recording that specifies the following Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. An access easement to the private facilities for the purpose of inspection shall be granted to the county. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.

A-10 Excavation and Grading:

Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

B-1 Pre-Construction Conference:

Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County; and,

- a. Prior to site construction, abandonment of septic systems, water wells and underground tanks shall be decommissioned in accordance with the procedures of the Clark County Health Department.
- b. Prior to site construction, structures slated for demolitions shall be demolished in accordance with the procedures of the Southwest Clean Air Agency and the Clark County demolition permit.

B-2 Erosion Control:

Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

B-3 Erosion Control:

Erosion control facilities shall not be removed without County approval.

B-4 Wetland Buffer:

Wetlands and Buffers - Permanent physical demarcation of the boundaries in a manner approved by the Development Services Manager (i.e. fencing, hedgerows, berms etc.) and

posting of approved signage on each lot or every 100 ft of the boundary, whichever is less.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

C-1 Verification of the Installation of Required Right-of-way Landscape:

Prior to the issuance of an approval of occupancy for a site plan, the applicant shall provide verification in accordance with Section 40.320.030(B) that the required right-of-way landscape has been installed in accordance with the approved landscape plan(s).

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

D-1 Not Applicable

E	Building Permits Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

E-1 Impact Fees:
None

F	Occupancy Permits Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 Land Use and Critical Areas:

- a. Landscaping: Prior to the issuance of an approval of occupancy for final **site plan**, **the applicant shall submit a copy of the approved landscape plan(s)** with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation (if any) have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
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G-1 Site Plans and Other Land Use Approvals:

Within 5 years of preliminary plan approval, a Fully Complete application for a development permit shall be submitted.

G-2 Department of Ecology Permit for Construction Stormwater:

A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one-acre minimum threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

G-3 Building and Fire Safety:

Building and Fire, Life, and Safety requirements must be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or applicant to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. Land use decisions do not waive any building or fire code requirements.

G-4 Building Elevation Approvals:

Approval of building elevations submitted for preliminary plan review does not ensure compliance with other requirements (e.g., building setbacks) under other construction codes. Compliance with other construction codes is the responsibility of the applicant at the time of building permit issuance.

H	Post Development Requirements
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	Review & Approval Authority: As specified below
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H-1 As proposed, the applicant shall monitor all habitat mitigation areas for a period of five (5) years and submit monitoring reports and appropriate fees to the Planning Director. All photo and monitoring data shall be collected during the most recent growing season prior to report submittal.

Dated this 30th day of June, 2009



J. Richard Forester
Hearing Examiner

NOTE: *Only the decision and the condition of approval are binding on the applicant, owner or subsequent developer of the subject property because of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. There may be requirements of local, state, or federal law, or requirements, which reflect the intent of the applicant, the county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

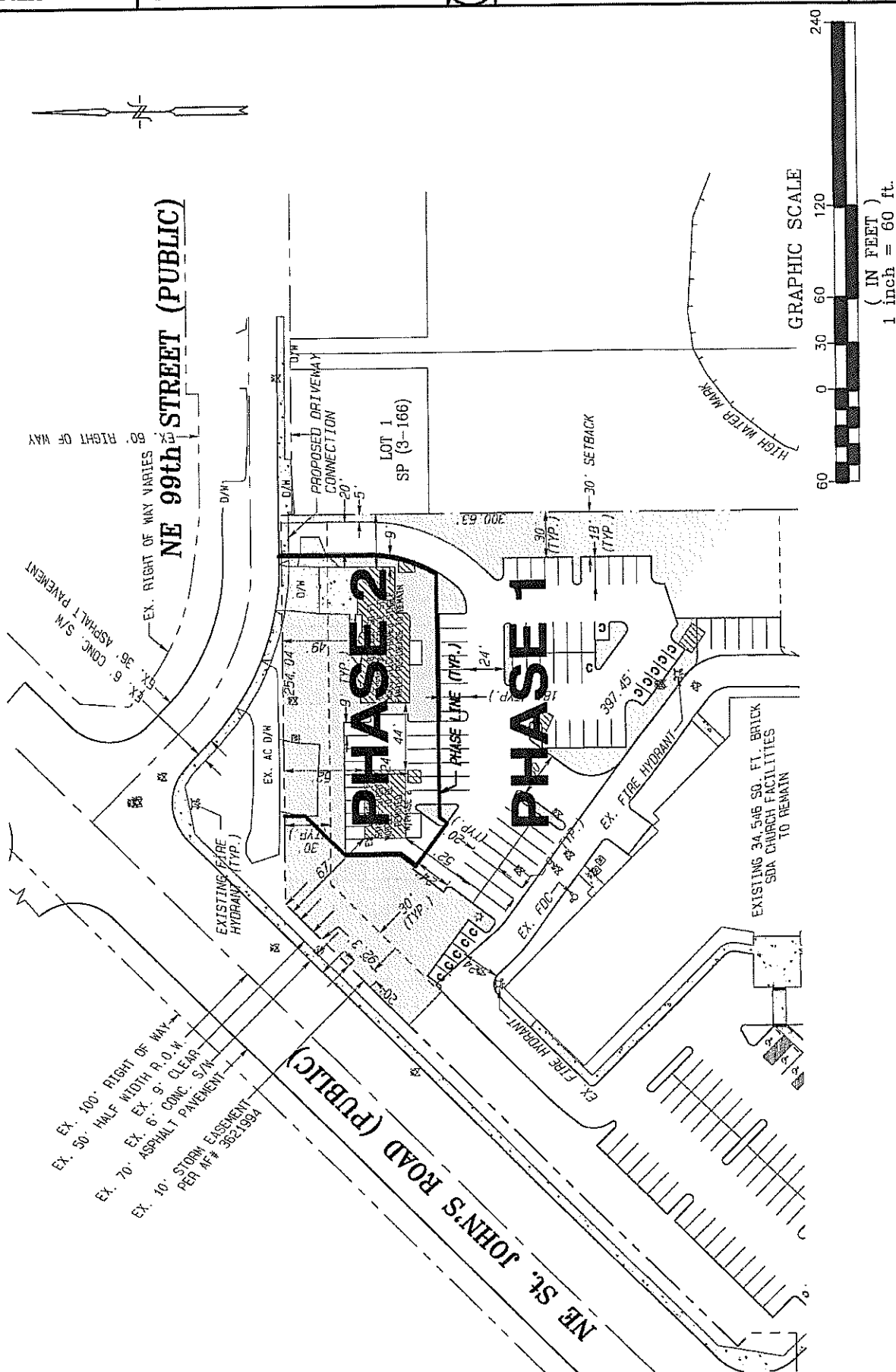
Appeals:

Only a party of record may appeal an appeal of any aspect of the Hearing Examiner's decision, except the SEPA determination, to the Board of County Commissioners. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The appeal shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the final land use decisions shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030 (H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager.
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied, on to prove the error; and,
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal also must explain why such evidence should be considered, based on the criteria in subsection 40.510.030(H)(3)(b);
5. A check in the amount of \$716.00 (made payable to the Clark County Board of County Commissioners).





HEARING EXAMINER EXHIBITS

**APPLICATION: SEVENTH DAY ADVENTIST CHURCH
PARKING ADDITION**

**CASE NUMBERS: CUP2009-00003; PSR2009-00013; FLP2009-00004; HAB2009-00015;
SEP2009-00025; WET2009-00020**

Hearing Date: June 25, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	3/13/09	Applicant, Sterling Design, Inc	Cover Sheet, Topographic Map, Phasing Plan, Proposed Development Plan with Existing Conditions, Preliminary Site Plan, Proposed Stormwater Plan, Preliminary Landscape Plan
6	3/13/09	Applicant, Sterling Design, Inc	<ol style="list-style-type: none"> 1. Cover Sheet -- With Table of Contents 2. Application Form 3. Application Fee 4. Pre-Application Conference Report 5. Developer's GIS Packet Information 6. Narrative 7. Legal Lot Determination Information 8. Approved Preliminary Plats Abutting the Site. 9. Proposed Development Plan 10. Soils Analysis Report 11. Preliminary Stormwater Design Report 12. Proposed Stormwater Plan 13. Project Engineer Statement of Completeness and Feasibility 14. Proposed Phasing Plan 15. Traffic Study 16. State Environmental Review 17. Sewer District Utility Review Letter 18. Water Utility Review Letter 19. Health Department Project Review Evaluation Letter 20. Covenants or Restrictions 21. Associated Applications & Required Information B. Sight Distance Certification C. Flood Plain Inquiry D. Habitat & Wetland Delineation Report & Survey E. Circulation Plan 22. Submittal Copies
7	4/3/09	CC Development Services	Fully Complete Determination

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
8	4/24/09	CC Development Services	Affidavit of Mailing Public Notice
9	4/24/09	CC Development Services	Notice of Type III Development Review Application, Optional SEPA Determination of Non-Significance & Public Hearing
10	4/28/09	Edmund Denny	Comment Letter
11	5/8/09	Dept of Ecology	Agency Comments
12	5/20/09	Applicant, Sterling Design, Inc	Affidavit of Posting Land Use Sign
13	5/20/09	CC Development Services	Notice of Public Hearing for June 25, 2009
14	6/1/09	Applicant, Sterling Design, Inc	Design Road Mod Application.
15	6/1/09	David Bottaminin, PW	Road Modification Report & Recommendation
16	6/9/09	CC Development Services	Conservation Covenant Running with the Land
17	6/9/09	CC Development Services	Mapped Wetland Buffer
18	6/9/09	CC Development Services	Wetland Determination Staff Report
19	6/10/09	CC Development Services	Affidavit of Posting Public Notice
20	6/10/09	CC Development Services	Staff Report & Recommendation – Written by Michael Uduk
21	6/25/09	CC Development Services	Power Point Pictures

Copies of these exhibits can be viewed at:
Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810